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The LAW JOURNAL takes pleasure in announcing the election of the following to the Board of Editors: Frank Russell Graves, St. Louis, Mo.; Ralph Haden, B.A., Christian University, 1908, Frankford, Mo.; Robert Franklin Reeves, B.A., Indiana University, 1910, Wilkinson, Indiana, all from the class of 1911; and from the class of 1912, Henry Culbertson Clark, B.A., George Washington University, 1910, Takoma Park, Md.; Alexander Wellington Creedon, B.S., Trinity College, 1909, Hartford, Conn.; Cleaveland Jocelyn Rice, B.A., Yale, 1909, New Haven, Conn.; Flavel Robertson, B.A., University of Kansas, 1910, Kansas City, Mo.

"PERSONAL BAGGAGE" AS A MATTER OF LAW.

In *McIntosh v. Augusta & A. Ry. Co.*, 69 S. E., 159, the plaintiff had been refused admittance to a street car because he was carrying a five-cent piece of ice, the conductor claiming that the ice was not properly packed, so as to prevent leakage, and that he was acting under the authority of a rule of the defendant com-

pany, which forbade passengers to carry bulky and dangerous packages aboard the cars. It has been proven on trial that the ice was so packed as to prevent leakage, and the Court decided that as a matter of law, it could not say that ice was not personal baggage.

As to the amount and nature of goods that may be carried as personal baggage some very interesting questions have arisen for settlement by the courts. In *Connolly v. Warren,* 106 Mass., 146, it was held that a feather bed was not personal baggage, inasmuch as it was not appropriate nor necessary for the personal use of one while travelling. In *Little Rock & Hot Springs Western Railway Co. v. Record,* 74 Ark., 125, it was held that two shot-guns were personal baggage, as they were carried by the traveller on a hunting trip.

Jones v. Vorhees, 10 Ohio, 140, decided that inasmuch as stage coaches were common carriers, a watch left in a trunk was part of a traveller's personal baggage and that they were liable therefor.

It is generally held, however, in deciding what is to be considered personal baggage and what is not, that it is a matter for the jury and not for the court to pass judgment on. When the duty falls upon the jury to decide as to what shall and shall not be classified as personal baggage, the question which presents itself is what circumstances shall the jury consider when so deliberating. *Morris v. Bay State Steamboat,* 4 Bosw., 225, in holding that it was a question of fact for the jury to decide what personal baggage was, also added that, in so deciding, the residence of the passenger should be taken into consideration.

Little Rock & Hot Springs Western Railway Co. v. Record, 74 Ark., 125, held personal baggage to be whatever a passenger took with him for his personal use and convenience, based upon the wants of the particular class to which he belongs, either with reference to the immediate necessities, or to the purposes of the journey. Consequently, it would seem that there are four requisites for the jury to consider, which may be classed as follows: the passenger's residence; his station in life; the purpose of the journey; and the necessities required for such a journey.

In *McIntosh v. Augusta & A. Ry. Co.,* 69 S. E. Rep., 159, the case at hand, it seems that the learned judge has taken upon

himself to lay down a matter of fact as a rule of law, and his action is almost without precedent. His position may be justified, however, as circumstances often alter cases. For in this case the ice was for a sick man. In times of sickness certain articles are very necessary and it is often most urgent that they should be speedily procured, and ice is often as much of a necessity as medicine. Considering ice as a necessity in the present case, the next question is, can it be classified under any one of the four requisites above mentioned. It seems possible to consider it as coming under the head of the purpose of the journey.

The utmost expedition was required in the plaintiff's mission and the article required was ice, consequently the whole question was dependent upon circumstances, and it was undoubtedly in this light that the court so regarded it.

It seems proper under these circumstances to classify ice as personal baggage, considering it as a necessity and inherent in the very purpose of the journey. However, it is not always desirable to establish precedents, for this question could have as easily been decided by jury and would undoubtedly have gained more favor. For the true rule seems to be as laid down and emphasized most decisively in *Brook v. Gale,* 14 Fla., 523, that it is improper for a judge to decide what personal baggage is, because it is a question of fact and should be left to the jury.

STATUTORY LIABILITY OF STOCKHOLDERS ON THE REORGANIZATION OF A CORPORATION.

In the reorganization of an Ohio railroad company, the new company assumed the debts of the old, and provided for an issue of first-lien bonds to be sold, and the proceeds to be used to pay such indebtedness. Under the statute of the state, the stockholders were subject to double liability, but such bonds contained a provision by which the holders waived the right to resort to such liability in consideration of the lien given. It was held in *Irvine v. Baulcard,* 181 Fed., 206, that a stockholder of the old company who became a party to the reorganization and exchanged his stock for stock in the new company was subject to the additional liability for the debts of the old company so far as they were not discharged from the proceeds of the bonds sold.